

REMARKS

Obviousness-Type Double Patenting

The Examiner rejects claims 1-15 as unpatentable over claims 1-3 and 9-11 of the '471 patent because "the instant claims correspond to a method of using the apparatus claimed in the '471 patent." Examiner states that a timely filed terminal disclaimer may overcome this rejection.

Applicants dispute Examiner's assertion, because the pending claims are **not** directed to a method of using the device of the '471 patent – the devices in fact differ. For example, the device used in the claimed method does **not** have the "suspended diaphragm" with "electrode" that is positioned "laterally" to the buried channel. Secondly, there is no suggestion to modify the claims of the '471 patent in order to arrive at the pending claims. Third, the Examiner has not pointed to any motivation to make such modifications.

Therefore, Applicants assert that no terminal disclaimer is required with respect to the '471 patent and request the rejection be reconsidered and withdrawn. Applicants would appreciate a brief telephone interview if the Examiner is not in agreement with these points.

In view of the above remarks, applicants believe the pending application is in condition for allowance, and request same.

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Respectfully submitted,

By


Tamsen Valoir, Ph.D.

Registration No.: 41,417
BAKER & MCKENZIE LLP
Pennzoil Place, South Tower
711 Louisiana, Suite 3400
Houston, Texas 77002-2746
713.427.5007
Attorneys For Applicant